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COMMITTEE ON TRANSPORTATION
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April 24, 2023

The Honorable Merrick Garland
Attorney General of the United States
Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Dear Attorney General Garland:

I write today, on behalf of the people of Ohio's 13th Congressional District, urging the United States Department of Justice to investigate the death of Mr. Jayland Walker, a young Black man killed by eight officers employed by the Akron Police Department on June 27, 2022. I request the Department of Justice (DOJ) use its authority pursuant to 34 U.S.C. § 12601 (formerly codified at 42 U.S.C. § 14141) to initiate an investigation into the patterns and practices of the Akron Police Department (APD) in order to enhance public safety and the community's trust in our sworn officers.

Summary of Events¹

On June 27, 2022, at approximately 12:22 am, two Akron police observed a vehicle in the area of North Howard Street and Tallmadge Avenue in Akron, Ohio. The driver and owner of the vehicle was Jayland Walker. As reported by the officers, the vehicle had a broken tail light and a missing license plate light. The officers testified they did not conduct a traffic stop on the vehicle citing the "safety concerns of conducting a traffic stop on a highway." At approximately 12:30 am, the officers again observed Mr. Walker's vehicle in the area where they were patrolling. Both officers testified they found this behavior to be suspicious and decided to conduct a traffic stop for "suspicious activity" and the vehicle's "equipment violation."

According to the officers, Mr. Walker did not stop the vehicle after they activated their emergency lights and the vehicle continued east on Tallmadge Avenue and eventually entered the Route 8 South ramp from Tallmadge Avenue. While on the Route 8 entrance ramp, officers called in a "Signal 21" indicating officers needed assistance as officers believed there had been a gun shot fired outside of the driver's side window. The officer continued to pursue the vehicle until reaching East Wilbeth Road.

After slowing the vehicle, Mr. Walker exited the vehicle and led the officers on a foot chase towards a parking lot on South Main Street. Officers attempted to subdue Mr. Walker with Tasers. That attempt failed and the foot pursuit continued until Mr. Walker reached the parking lot and

¹ The summary of events are compiled using publicly available information from the Ohio Attorney General's Office Bureau of Criminal Investigation Investigative Report: <https://www.ohioattorneygeneral.gov/getattachment/6d62cc90-ffac-498b-8d03-9b5d6fb946e3/001-Prosecutor-Summary.aspx>

stopped running. Eight officers fired their weapons. A total of 94 shots were discharged. Officers later reported they fired their weapons as they believed Mr. Walker “reached towards his waistband, turned then raised his arm towards officers.” Following the shooting, Mr. Walker was placed in handcuffs by officers and was found with his hands cuffed when Emergency Medical Technicians arrived on the scene, and he was pronounced dead.

An autopsy conducted by the Summit County Medical Examiner found Mr. Walker sustained 46 entrance and graze gunshot wounds from the shots fired by APD in the following locations: 15 gunshot wounds to his torso, 17 to his pelvis and upper legs, eight to his arms and right hand, five to his knees, lower right leg, right foot, and one shot to his face.

The State and Local Investigation Process

On Monday, June 27, 2022, Chief Stephen Mylett of the APD requested the assistance of the Ohio Bureau of Criminal Investigation’s (BCI) Special Investigations Unit (SIU) and Crime Scene Unit (CSU) — offices under the jurisdiction of the Ohio Attorney General Dave Yost — in conducting an *independent* investigation into the facts and circumstances surrounding an officer-involved shooting incident.²

On July 1, 2022, Ohio’s 11th Congressional District Representative Shontel Brown requested the DOJ to actively monitor this investigation and review its results, so that “communities in Northeast Ohio are assured that a full and fair investigation will be conducted that accurately portrays the facts and makes findings consistent with those facts.”³

On July 3, 2022, the APD released the body-worn camera footage documenting the events of the night of June 27, 2022,⁴ in compliance with the Akron, Ohio Municipal Code, Ord. 159-2021,⁵ which requires the release of footage from City-issued body-worn cameras or other City-issued video recording equipment that documents the use of deadly force by a police officer against a person, or the use of force by a police officer resulting in serious bodily injury to a person, within seven days of an incident. On the same day, Ohio Attorney General Yost announced a BCI investigation of the officers involved in the shooting death of Jayland Walker, and that the investigative file will be made public at the conclusion of the case. He stated: “People want and deserve answers, and they shall have them. BCI will conduct a complete, fair and expert investigation. Body-worn camera footage is just one view of the whole picture – before drawing conclusions, the full review must take place.”⁶

On April 10, 2023, following the investigation conducted by BCI, the Ohio Attorney General convened a special grand jury and presented the findings of their investigation. Subsequently, on April 17, 2023, the grand jury issued a “No Bill” with respect to the eight officers involved in the shooting death of Jayland Walker.⁷ The Ohio Attorney General in a press conference discussed the

² <https://www.ohioattorneygeneral.gov/getattachment/6d62cc90-ffae-498b-8d03-9b5d6fb946e3/001-Prosecutor-Summary.aspx>; “Initially, the Akron Police Department requested only the use of BCI’s Crime Scene Unit to process the scene and that Akron Police personnel would conduct the investigation. Later in the day, at approximately 11:00 AM, the Akron Police Department requested that BCI’s Special Investigations Unit conduct the investigation. Therefore, no Special Investigations Unit agent responded to or took any action at the scene.”

³ <https://shontelbrown.house.gov/media/press-releases/rep-brown-requests-department-justice-monitor-akron-police-department-death>

⁴ <https://www.akronohio.gov/cms/news/b6e0cdada6ae703f/index.html>

⁵ https://library.municode.com/oh/akron/codes/code_of_ordinances?nodeId=AKRON_OHIOMUCO

⁶ <https://www.ohioattorneygeneral.gov/Media/News-Releases/July-2022/BCI-Investigates-Officer-Involved-Shooting-in-Akro>

⁷ <https://www.ohioattorneygeneral.gov/Media/News-Releases/April-2023/AG-Yost-Releases-Investigative-Documents-in-Jaylan>

case and made the reports, interview, statements, and information collected available for the public to view online.

Following the grand jury decision, APD Chief Mylett announced that the APD would carry out its own internal investigation into the shooting death of Jayland Walker. In an interview with the Akron Beacon Journal, Chief Mylett stated in response to questions about violations of department policies related to the shooting death of Mr. Walker: “Nothing is jumping out at me right now... but there could be, I don’t know.”⁸

The DOJ Must Initiate an Investigation into Patterns or Practices of the Akron Police Department

The actions of the APD during and after the death of Mr. Walker raise numerous questions into their patterns and practices. The APD’s use of force, opposition to transparency, and actions taken against citizens exercising their Constitutional right to protest suggest a culture uncondusive to public safety.

Ninety-four rounds fired in 6.7 seconds shocks the conscious. In the course of the interview process, BCI investigators asked about the excessive nature of shots fired. The officers responded as follows:⁹

- BCI Special Agent (SA) Cory Momchilov asked Officer [redacted] if there was any training he received to deal with a threat or decide to fire. Officer [redacted] answered: “Just fire until the threat has been stopped.”
- SA Momchilov asked Officer [redacted]: “What caused him to continue to fire?” Officer [redacted] answered: “Uh, in my mind, I was unsure if I was the only person firing or if there was any, uh, anybody else firing, but I heard other gunshots, and with his actions, I assumed that he was shooting at me.” SA Momchilov then asked: “So, you couldn’t tell, the other gunshots, who they were coming from?” Officer [redacted] answered: “I could not, until I stopped shooting. Uh, I realized that somebody was calling, cease fire and that I had to reload. At that point in time, I was able to tell that other officers were shooting.”
- SA Momchilov then asked: “What caused you to fire so many rounds?” Officer [redacted] replied: “Because I thought he was shooting at me, I heard gunshots going off, but I did not hear people left and right of me shooting. I thought the gunshots that I was hearing was coming from him.”
- SA Momchilov asked Officer [redacted]: “Okay. I guess some people might say that you fired in excess. I mean, do you have a response to that?” Officer [redacted] responded: “I shot until the threat was stopped.”
- SA Momchilov then stated, “Some might say that 10 or 11 shots is excessive, what would your response to that be?” Officer [redacted] answered: “I mean, we were trained to shoot until the threat is gone and that’s, that’s exactly what I did.”
- Officer [redacted] stated: “I, through prior experiences, I discharged my firearm until the threat was eliminated.”

⁸ <https://www.beaconjournal.com/story/news/2023/04/18/akron-police-chief-steve-mylett-no-obvious-policy-violations-in-jayland-walker-death/70126110007/>

⁹ <https://www.ohioattorneygeneral.gov/getattachment/6d62cc90-ffae-498b-8d03-9b5d6fb946e3/001-Prosecutor-Summary.aspx> (pp. 11-52)

- SA Momchilov asked: “And you said you fired a whole magazine?” Officer [redacted] responded: “I believe so.” SA Momchilov then asked: “I guess some people might say that was excessive. What would your response to that be?” Officer [redacted] responded: “I discharged my firearm until the threat was neutralized. I believed he was still a threat even though he was shot because through my past experiences someone that is shot doesn’t mean the threat’s neutralized.”

It is clear the eight APD officers involved in this shooting acted under the tenets of their training. The deployment of this training – training that has been described as ‘excessive’ – is what cost Mr. Walker his life. Surely, however, there are practices that could be implemented by the APD that would not require eight officers to discharge 94 rounds in 6.7 seconds in order to ensure the public’s safety. The DOJ can provide guidance to APD on the use-of-force which prioritizes the value of human life. For example, the DOJ use of force policy pursuant to President Biden’s Executive Order 14074¹⁰ requires the use of “objectively reasonable force to effectively gain control of an incident, while protecting the safety of the officers and others.”¹¹ Implementation of this policy will serve to further the goals of prioritizing public safety while also considering the needs of law enforcement.

Furthermore, the APD’s resistance to calls for transparency undermine its critical mission to protect and serve the people of our community.

In November 2022, the Akron Beacon Journal filed a Writ of Mandamus with the Supreme Court of Ohio in an attempt to obtain the records of APD officers that may have previously used lethal force in three separate incidents prior to 2021.¹² As of the date of this letter, that legal matter is still ongoing. It is concerning the APD continues to conceal information critical to the public good from our local paper of record.

It is even more concerning that this behavior appears to be a pattern within the APD. As stated in the Writ, the actions of the APD indicate they believe their “uniformed civilian police officers can act with anonymity, even when using lethal force.”¹³ For example, on July 14, 2022, Chief Mylett authorized APD officers to remove their name plates.¹⁴ Distressingly, prior to the completion of the BCI’s investigation Chief Mylett reinstated the eight unknown officers involved in the shooting citing “staffing issues” on October 10, 2022.¹⁵ While it is the prerogative of the APD to ensure its officers safety and their ability to operate with the agency necessary to serve our community, the fact remains public servants are just that: servants who are accountable to the public.

Additionally, the DOJ previously explained the importance of name plates in a letter from Christy E. Lopez, then-Deputy Chief, Special Litigation Section, Civil Rights Division related to the 2014 Ferguson Police Department Investigation:

¹⁰ <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/05/25/executive-order-on-advancing-effective-accountable-policing-and-criminal-justice-practices-to-enhance-public-trust-and-public-safety/>

¹¹ https://www.justice.gov/d9/pages/attachments/2022/05/23/departments_updated_use-of-force_policy.pdf

¹² <https://www.supremecourt.ohio.gov/Clerk/ecms/ - /caseinfo/2022/1444>

¹³ <https://www.supremecourt.ohio.gov/Clerk/ecms/ - /caseinfo/2022/1444>

¹⁴ <https://www.wkye.com/article/news/special-reports/jayland-walker/akron-police-officers-no-longer-wearing-name-tags-threats-following-jayland-walker-shooting/95-1c815662-8f13-4992-9dea-c301653473e8>

¹⁵ <https://www.cnn.com/2022/11/04/us/jayland-walker-ohio-shooting-akron-officers-reinstated/index.html>

“Officers wearing name plates while in uniform is a basic component of transparency and accountability. It is a near-universal requirement of sound policing practices and required under some state laws. Allowing officers to remain anonymous when they interact with the public contributes to mistrust and undermines accountability. The failure to wear name plates conveys a message to community members that, through anonymity, officers may seek to act with impunity. Further, the lack of name plates makes it difficult or impossible for members of the public to identify officers if they engage in misconduct, or for police departments to hold them accountable.”¹⁶

A principled tenet of constitutional policing is to create an environment of transparency and accountability. The continued practice of withholding information from the public – be it by obfuscating public records requests or removing police name plates – undermines trust between the police and the community they have taken an oath to protect and serve.

Following the grand jury’s decision to not indict the police officers involved in Mr. Walker’s death, concerned members of the community exercised their Constitutional right to petition their government and express their anger, grief, and concern in a peaceful manner. During the course of one demonstration on April 19, 2023, officers deployed chemical irritants, including tear gas and pepper spray, against protestors.¹⁷ While APD stated objects were thrown at officers, prompting their use of chemical irritants, the Akron Bail Fund filed suit against the City of Akron, alleging that the APD engaged in patterns of speech-suppression and unnecessary violence.¹⁸

As a result of that lawsuit, on April 21, 2023, the U.S. District Court for the Northern District of Ohio mediated a joint stipulated order between the Akron Bail Fund and the City of Akron that restrains APD for 14 days from “using non-lethal force, including tear gas, pepper spray, flash-bang grenades, rubber bullets, wooden pellets, batons, body slams, pushing or pulling, or kettling, on nonviolent protestors”¹⁹ who are exercising their Constitutional right to protest. Engaging citizens as threats raises serious questions about the operational stance the APD has inculcated in its culture and invites examination of its internal procedures.

These actions, taken together, call into question the patterns and practices of the Akron Police Department. As such, I formally request that the Department of Justice make use of its authority pursuant to 34 U.S.C. § 12601 (formerly codified at 42 U.S.C. § 14141) and initiate an investigation, present its findings, and facilitate the implementation of solutions which will ultimately enhance public safety and the community’s trust in our sworn officers.

The Need for Public Safety and Trust Building

Law enforcement officers take an oath to protect and serve the public at large, and that oath is paramount to the ways in which they must operate within our communities. It requires that they be held to the highest standards possible, and when those standards are not met – particularly in instances of excessive force or abuse of power and especially in those instances resulting in death.

¹⁶ <https://s3.amazonaws.com/s3.documentcloud.org/documents/1306216/letter-to-ferguson-police-regarding-name-plates.pdf>

¹⁷ <https://www.cleveland.com/akron/2023/04/akron-police-use-tear-gas-on-people-protesting-over-jayland-walker-grand-jury-decision.html>

¹⁸ <https://www.beaconjournal.com/story/news/local/2023/04/22/akron-police-chief-mylett-refutes-protester-claims-wednesday-jayland-walker-protest/70142265007/>; <https://news.wosu.org/2023-04-21/activists-sue-akron-after-police-used-chemical-weapons-at-peaceful-jayland-walker-protest>

¹⁹ https://www.akronohio.gov/cms/resource_library/files/d20d632e905fb164/ecf_11_stipulated_tro.pdf

Americans overwhelmingly share this belief, and as government officials, we are similarly sworn to create safe communities, improve people's quality of life, and to conduct oversight that ensures this accountability.

The DOJ employs several programs to promote positive relationships between law enforcement and the communities they serve, such as the Strengthening Police and Community Partnerships program. As such, I invite the DOJ to consider Akron, Ohio as a candidate for this program in addition to any other pertinent opportunities available to local police departments.

I am firmly aware the majority of law enforcement officers in Ohio's 13th Congressional district and throughout the nation perform their duties professionally and honorably and we value their service. As part of honoring that service, holding police officers and departments accountable when deadly mistakes are made is essential to maintaining the community confidence that is critical to effective policing and safe streets.

Conclusion

The call for this investigation is in no way an attempt at retribution, but rather, an opportunity to implement more community focused policing that serves the needs of every segment of this community. I am confident you share our ultimate objective of ensuring the citizens of our nation have confidence in their law enforcement agencies, and that you will facilitate solutions-based tools and practices necessary to keep law enforcement safe and accountable, and protect our communities so that we never have to be in this situation again.

Ultimately, my prayer is both the members of this community and the officers who serve them make it home safely to their families and loved ones at the end of the day. In order to do so, there must be significant efforts to build trust and meaningful relationships. The gravity of recent events has shown it is past time for an independent third party to facilitate discussion to help mediate disputes and place the community on a path to reconciliation and healing — a path that has been charted by the DOJ in numerous communities across the country.

I appreciate your diligence and timely attention to this matter of great importance to our community.

Yours in service,

A handwritten signature in black ink, appearing to read 'Emilia Strong Sykes', with a stylized flourish at the end.

Emilia Strong Sykes
Member of Congress
13th Congressional District of Ohio

Cc: The Honorable Christopher Wray, Director, Federal Bureau of Investigation
The Honorable Kristen Clarke, AUSA, Civil Rights Division
The Honorable Sherrod C. Brown, U.S. Senate
The Honorable James David Vance, U.S. Senate
The Honorable R. Michael DeWine, Governor, State of Ohio
The Honorable Daniel Horrigan, Mayor, City of Akron
Gregory D. Nelsen, Special Agent in Charge, FBI Cleveland Field Office